

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ENIGMA SOFTWARE GROUP USA, LLC,

Plaintiff,

-against-

MALWAREBYTES INC.,

Defendant.
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Case No. 1:16-cv-07885 (PAE)

**[PROPOSED] SUPPLEMENTAL
ALLEGATIONS TO FIRST AMENDED
COMPLAINT**

JURY TRIAL DEMANDED

Plaintiff Enigma Software Group USA, LLC (“ESG”), by its attorneys, hereby supplements its First Amended Complaint against Defendant Malwarebytes Inc., formerly known as Malwarebytes Corporation (“Malwarebytes”), with the following allegations, which describe events that occurred after ESG filed its First Amended Complaint:

1. After Malwarebytes began identifying and blocking ESG’s programs SpyHunter and RegHunter as “potentially unwanted programs” (“PUPs”) and threats, ESG attempted to mitigate the harm caused by this unlawful conduct by providing consumers with a means to choose to download and use ESG’s programs which Malwarebytes otherwise had taken away from them.

2. To do so, ESG provided its customers with an option to download an alternative SpyHunter installer that disables Malwarebytes’ MBAM software and allows the consumer to use SpyHunter instead (the “Countermeasure”).

3. ESG issued a press release on December 20, 2016 to announce that it had launched the Countermeasure (“Press Release”).

4. In the Press Release, ESG specifically noted that the Countermeasure fully respects consumer choice: “ESG is notifying its customers that it has developed an alternative SpyHunter installer that will enable those customers who wish to use SpyHunter instead of MBAM to do so. The installer disables MBAM, with user consent, and allows customers to install and use SpyHunter.”

5. ***Within twenty-four hours*** of the issuance of the Press Release, Malwarebytes opened an additional line of attack to interfere with the Countermeasure and further harm ESG.

6. Specifically, Malwarebytes began, and continues to, block all *.enigmasoftware.com domains. When Malwarebytes started its blocking of all *.enigmasoftware.com domains, it informed its users with the following pop-up:



7. Malwarebytes’ blocking of *.enigmasoftware.com domains encompasses both ESG’s publically available website at www.enigmasoftware.com and domains that ESG provides to users to communicate with ESG’s back-end servers and enable, for example, users to receive critical SpyHunter functions like automatic product updates to combat newly released malware and to access the interface to allow users to contact ESG’s Customer Support Team for assistance.

8. Malwarebytes’ new blocking of *.enigmasoftware.com domains does not protect MBAM users. Once MBAM has identified ESG’s programs as PUPs and threats and has

quarantined them, those programs are disabled and do not communicate with any *.enigmasoftware.com domains.

9. Rather, blocking *.enigmasoftware.com domains serves only to harm consumers by preventing them from utilizing ESG's Countermeasure and/or manually overriding Malwarebytes' blocking of ESG programs as PUPs.

10. MBAM's blocking of *.enigmasoftware.com domains prevents users from accessing ESG's website, which renders them unable to download the Countermeasure and exercise the consumer choice that ESG has sought to facilitate.

11. In fact, if a user seeks to manually override MBAM's block by choosing to "restore" ESG's programs from MBAM's "quarantine," and even if the user is able to figure out how to add those programs to MBAM's "Malware Exclusions" so that they are not quarantined each time the user attempts to open them, MBAM's blocking of *.enigmasoftware.com domains renders ESG's programs largely non-operational, frustrating the user's efforts to use his or her product of choice and leaving the user's computer vulnerable.

12. ESG contacted Malwarebytes to request Malwarebytes stop identifying ESG's programs as PUPs and blocking *.enigmasoftware.com domains. Malwarebytes has not yet responded and MBAM continues to identify ESG's programs as PUPs and block *.enigmasoftware.com domains.

13. Malwarebytes knows that *.enigmasoftware.com domains are safe and do not pose a security threat. Malwarebytes has no objective, good faith basis to claim that *.enigmasoftware.com domains are a threat or "malicious."

14. MBAM's baseless blocking of *.enigmasoftware.com domains is willful and malicious.

15. MBAM's baseless blocking of *.enigmasoftware.com domains is causing and will continue to cause harm to ESG.

Dated: New York, New York
January 11, 2017

Respectfully submitted,

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